

EXHIBIT 4

1 COMMONWEALTH OF MASSACHUSETTS

2
1 Suffolk, ss.
2 Nos. 071882-83
2 073128

Superior Court
Volterra, J

3 COMMONWEALTH OF MASSACHUSETTS

4 vs.

5 SHAWN DRUMGOLD and TERRANCE TAYLOR

6 APPEARANCES:

7 Philip T. Beauchesne, Esq., Assistant District
8 Attorney, on behalf of the Commonwealth.

9 Steven J. Rappaport, Esq., on behalf of the Defendant
Shawn Drumgold.

10 Robert George, Esq., on behalf of the Defendant,
11 Terrance Taylor.

12
13 Suffolk Superior Courthouse
14 Boston, Massachusetts
15 Friday, March 3, 1989

16 MOTION TO DISMISS

17 VOLUME II

18 Pages 1 - 94

19 ANN M. DONNELLY
20 OFFICIAL COURT REPORTER

21
22
23
24

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I N D E X

	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
3	William Celester	3	8	32	
4	John A. Canavan, III	35	53		
5	Francis O'Meara	69	78		

E X H I B I T S

<u>No.</u>	<u>For Identification</u>
8	Subpoena (William Celester) 21
9	Murder complaint 66
10	Tape of Shawn Drumgold at Area B 68

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Honor?

P R O C E E D I N G S
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MR. BEAUCHESNE: May I proceed, your

THE COURT: Yes.

MR. BEAUCHESNE: The Commonwealth calls
Deputy Superintendent Celester, please.

WILLIAM CELESTER, Sworn

Direct Examination

BY MR. BEAUCHESNE:

Q Will you identify yourself for the record, sir?

A Deputy Superintendent William Celester, Commander
of Area B.

Q Back on August 29, 1988 what was your duty assign-
ment on that day?

A Commander of Area B.

Q At some time were you requested to go to the
First Session of the Roxbury District Court?

A Yes, I was.

Q Approximately -- if you can remember, what time
approximately did you receive that request?

A I don't know. It was some time in the afternoon.

Q By what means did you receive a request to go
to the First Session?

A By telephone.

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1 Q I presume you walked over there?

2 A Yes, I did.

3 Q When you got into the courtroom what -- if
4 anything -- did you do?

5 A Judge Martin wanted a ranking officer to request
6 of him -- to assure him that if Mr. Drumgold was
7 booked that he'd be back at a certain time.

8 Q When you went into the courtroom did you go up
9 to the bench?

10 A Yes, I did.

11 Q And did you have some conversation with the Judge?

12 A Yes, I did.

13 Q Were there any other people involved at that bench
14 conference, in that conversation?

15 A As I recall, I think Detective Murphy from Homicide.
16 And there was an Assistant DA, I'm pretty sure.
17 I don't know who -- there was a court officer. I
18 don't know -- I don't recollect who was there.

19 Q Could you help us with the DA's name, if you recall?

20 A No, I can't.

21 Q Does the name Canavan ring a bell?

22 A I really don't remember.

23 Q But at any event up at the bench there were the
24 three of you, at least for some portion of the

II-5

1
2 time?

3 A Yes.

4 Q Can you tell us, as best you presently now
5 recall, the conversation between the Court and
6 yourself, or any other person who was up at
7 that bench conference?

8 A I requested of Judge Martin to allow the homicide
9 officers----

10 MR. RAPPAPORT: Objection. I thought
11 you just asked whether anybody else was present.

12 MR. BEAUCHESNE: I did. Do you want
13 me to do it again?

14 MR. RAPPAPORT: I didn't think that question
15 was answered. Maybe I'm wrong.

16 MR. BEAUCHESNE: It was.

17 MR. RAPPAPORT: I withdraw the objection,
18 then.

19 MR. BEAUCHESNE: Just to clarify the
20 situation for counsel, I believe the question was -- I
21 asked him to repeat the entire conversation between the
22 Court, himself, and any other person at the bench
23 conference.

24 MR. RAPPAPORT: I'm sorry. I withdraw
25 the objection.

1 II-6
2

3 THE COURT: You requested. Right? That's
4 what you said?
5

6 THE WITNESS: Yes, your Honor.
7

8 THE COURT: You requested what?
9

10 THE WITNESS: I requested that the Judge
allow the officers from Homicide to take Mr. Drumgold
11 for booking, for booking process. Judge Martin said
to me could I have him back by 2:30. I said that would
be impossible. He said: Well, I want him back here
12 by 3:30 at the latest.

13 BY MR. BEAUCHESNE:
14

15 Q What happened then? What was the next thing that
16 was said or done?
17

18 A The detectives then left.
19

20 Q When you say the detectives, that's the Homicide
21 detectives?
22

23 A The Homicide detectives then left. I left. I
24 was leaving, and then the Judge called me back,
25 to the best of my recollection.

Q Now, after he called you back was there any other
person up at the bench with you and the Judge at
that time?

A There might have been a court officer. It was
a long time ago. There might have been a court

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officer. I'm not sure, but----

3 Q Tell us any further conversation that was had
4 between you and the Judge?

5 A The Judge said, "You're not going to question
6 him, are you?" -- talking to me.

7 || 0 Yes?

A And I said, "No, I'm not."

9 Q Was there any further question -- any further
10 discussion?

A No. there wasn't.

Q Now, at any time after you left -- I presume you left the courtroom at that time?

A Yes, I did.

Q After you left the courtroom did you have any
15 further communications with either Officer Paul
16 Murphy or Officer Walsh from the Homicide Unit
17
18 that day?

19 A No, I did not.

Q So, you didn't communicate with him in any way?

21 A Not in any way.

33 || 0 And----

23 MR. BEAUCHESNE: May I have just one
24 moment, please?

25 (Pause.)

II-14

1 THE COURT: The answer may stand.
2

3 You infer that it had.

4 BY MR. RAPPAPORT:

5 Q You had a conversation with Judge Martin -- and
6 this is approximately what time?

7 A I don't know. I know it was in the afternoon.

8 Q One o'clock?

9 A Could have been.

10 Q Well, it was certainly before he was actually
11 brought over to the police station and processed
12 in any way that you processed him.

13 Correct?

14 A Yes.

15 Q So, assume for purposes of this discussion, sir,
16 that there's a document in evidence which indicates
17 that Mr. Drumgold was over at Area B that afternoon
18 by 1:15. Just assume that for the purposes of
19 this question.

20 A Okay.

21 Q Therefore, your conversation with Judge Martin
22 occurred some time before 1:15.

23 Correct?

24 A Yes.

25 Q Now, was it your understanding that Mr. Drumgold

II-28

2 the bench. I remember --- I left with them, and
3 I think I was called back.

4. Q Okay. You're called back, and you have a distinct
5 memory of returning alone to the area where Judge
6 Martin was?

7 A Yes.

8 Q So Detective Murphy was no longer with you?

9 A No, he wasn't.

10 Q And at this point you say Judge Martin now, for
11 the first time, said something with regard to
12 interrogation?

13 A Yes.

14 Q And he said to you: You're not going to interrogate
15 him, are you?

16 A He said: You're not going to question him, are
17 you? I believe that's what he said. That was a
18 long time ago. I believe that's what he said.

19 Q And your response was: Hey, I'm not; or I'm not?

20 A I said: No, I'm not, your Honor.

21 Q Now, when you said: No, I'm not, your Honor, did
22 you mean that: No, I -- Deputy Superintendent
23 William Celester -- am not going to, or---

24 A Yes, that's what I meant.

25 Q Or the Boston Police are not going to?

II-29

1 A No. I said: No, I'm not.

2 Q So you were only speaking for yourself?

3 A That's correct.

4 Q You were there, sir -- you were aware when you
5 were called before the Court that he wanted a
6 ranking official of the Boston Police
7 Department?

8 A Yes.

9 Q To talk about this Drumgold matter. Correct?

10 A Yes. Yes.

11 Q And, sir, didn't you think, or didn't it dawn
12 on you at that particular time that he wanted
13 a ranking official who would be acting in his
14 official, as opposed to personal, capacity?

15 A Yes.

16 Q So, when you responded to the Court, you were
17 responding in your official capacity as a
18 ranking official of the Boston Police Department,
19 or as William Celester, when you said: No, I'm
20 not?

21 A As a ranking official of the Boston Police
22 Department.

23 Q Having made that representation to the Court,
24 as a ranking official of the Boston Police

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A I don't -- what do you mean "the representation
I just made"?

Q Well, you -- as a ranking official of the Boston
Police Department -- had just represented to the
Court that you would not be questioning Mr.
Drumgold?

A Yes.

11 Q Did you communicate that to any of your subordinate
12 officers?

A No, I did not.

14 ... other Boston police officers?

A No I did not.

16 THE COURT: Now, sir, I take it -- I
17 mean this is from my own ignorance, from being a PFC
18 in the Army of the United States -- that if you're a
19 Deputy Superintendent that you're essentially a division
20 commander, are you not?

THE WITNESS: An area commander. Yes.

22 THE COURT: So at least you're like a
23 batallion commander, aren't you?

THE WITNESS: Thank you.

1 II-31
2

3 THE COURT: Probably even more than that,
4 like a division commander. Right?
5

6 THE WITNESS: Yes.
7

8 THE COURT: And as a division commander
9 when folks come into your sector you have command
10 authority over these people, don't you?
11

12 THE WITNESS: Yes, I do.
13

14 THE COURT: So, it was within your power,
15 was it not, to issue an order to Detective Murphy that
16 he was not to interrogate Drumgold, wasn't it?
17

18 THE WITNESS: It was in my power. Yes,
19 it was, your Honor.
20

21 THE COURT: Thank you, sir.
22

23 BY MR. RAPPAPORT:
24

25 Q Sir, if it was impossible to do that type of identification procedure that you were requesting Mr. Drumgold's body for -- if it was impossible to do that at Area B, why wasn't Mr. Drumgold brought downtown initially?

A I can't answer that.

MR. RAPPAPORT: I have no further questions.

MR. BEAUCHESNE: If I may, just briefly,
your Honor.

THE COURT: Certainly.